

Marshall County Independent.

VOL. 4

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No. 8

EVIDENCE ALL IN.

SUTHERLIN WILL SOON KNOW HIS FATE. COURT ROOM CROWDED.

The Defense Closed Their Side of the Case This Morning and the Lawyers are now Arguing the Case.

John Schulteis, Plymouth, Indiana. He testified that he lived in Plymouth 27 years and that he was a tanner. He was acquainted with defendant about six years and that he purchased a mule hide about Nov. 18, 1896. The skin he purchased was a dirty yellow color. He would not say whether the mule was skinned above or below.

Jacob Neff, Warsaw, Indiana. He testified that he lived in Warsaw about seven or eight years. He was acquainted with both Sutherland and Fetters. He and Fetters were in the bill board business at the Plymouth fair in the latter part of August 1896. Fetters had no money at that time, to his knowledge; but had considerable money before that, made no money at the Plymouth fair. Did not pay for permit. They quit business immediately afterwards and has never seen Fetters since.

Mrs. Edith Sutherland, wife of William Sutherland says that she was acquainted with Fetters. Fetters shaved about one week before he left. Shaved off his mustache at that time. Sutherland and Fetters left on Sunday about 2 o'clock and Sutherland came back Monday night and left next morning about 4:30. Buggy in which they left was a buckboard, and black horse and sorrell pony.

At this point the defense admits that the buggy the defendant had was a spring wagon the box of which was 5 feet, 11 inches outside, 2 feet, 5 inches on inside.

The defense offers in evidence the testimony of Johnny Vandana taken before the coroners jury at Knox which was read in evidence as follows: That he picked up cap where there was a pool of blood and hung it on a post at the school house, and a man came along driving a sorrell brown pony and a black horse, and took the cap and put it on.

Also the testimony of Taz Mitchell taken before the coroner and the testimony of Mary Rober all of which was excluded.

Geo. A. Williams, Plymouth, Indiana. Occupation blacksmith. Testifies that he had some horses for Ed. Fetters Sept., 1896, and he had no money to pay him, and that he was getting some wood from Twin Lakes that he would give him for his pay.

The defense rested their case and the state was through with the exception of one witness which would be here in the morning at 9 o'clock.

Att'y Lauer opened the argument for the state in an able speech. He first explained to the jury the law that governs in such cases.

Following this he explained what is meant by circumstantial evidence, explaining by using the illustration of Solomon when the two women came before him both claiming the motherhood of the same child. Solomon was perplexed but taking his knife stated that he would cut the child in twain and give each half. The true mother fell to her knees and begged the king to give the child to the other woman. The motherly instinct was the best possible evidence. That was circumstantial evidence. Mr. Lauer then introduced authorities strengthening his understanding as to what is meant by "reasonable doubt."

He explained the importance of motive in a criminal case, and showed what is meant by premeditated malice, after which he carefully reviewed the evidence showing the strong case of circumstantial evidence, fixing the crime upon the defendant.

Att'y Stevens addressed the jury this afternoon for the defense producing arguments in rebuttal to those of Att'y Lauer during the morning. He dwelt a long while on the idea that the jury is judge of the law and the evidence and endeavored to prepare the jury for the instructions of the court which he well knows will be adverse to the defendant. He contrasted our system of laws with those of older countries at an earlier period.

If the court is to be both judge and jury then one man has arbitrary power, which is not the spirit of the constitution.

He went at the theory of circumstantial evidence as presented by Mr. Lauer in a masterly way, producing instances

of cases where circumstantial evidence has proven seriously in error. He showed the character of the dead man, whom he considered so unworthy that the defendant even if guilty, should not receive the maximum sentence.

Mr. Stevens was still on the floor at the hour of going to press.

WEDNESDAY.

Mr. Stevens resumed his argument for the defense this morning. The witnesses for the state did not fair very well with this brilliant lawyer. There isn't a question of doubt but this speech was one of the best ever delivered before a Marshall county jury. The earnestness of the speaker his firm conviction as to the innocence of his client together with the ability of Mr. Stevens as an advocate made the scene in the court room one long to be remembered. He closed with an impressive appeal to the jury in behalf of his client. It was noticed that the jury grew more thoughtful and their eyes turned more reflectively to the defendant and his wife upon whose behalf so earnest a plea had been made. It was a great plea and was made by a good lawyer and it was plain to be seen that from his remarks he was pleading to save the life of his client from the hangman's noose. He may save Sutherland from this terrible fate but so far as an acquittal goes, never.

Attorney Stevens closed at 10:30 this morning and was followed by Mr. Glazebrook who occupied about four hours. Mr. Glazebrook is a fine appearing gentleman and a good lawyer and his speech to the jury only added another strong link in the great chain that the state has forged against Sutherland. The Independent is frank to acknowledge Mr. Glazebrook's ability.

MARTINDALE.

At the close of Mr. Glazebrook's speech Att'y Martindale took the floor and addressed the jury in behalf of his client Sutherland. When it was announced that Mr. Martindale would speak this afternoon it was observed that a number of business men had found seats in the court room as they fully expected that Mr. Martindale would make the greatest speech of his life. Martindale is well known for his unqualified belief in the innocence of his client. This only adds power and determination on the part of Martindale to stand by his client until the hope fades away. He is making a powerful address to the jury as we go to press. The jury will get the case tomorrow, and in all probability the Independent will publish the verdict tomorrow.

THURSDAY.

The court room was crowded with spectators yesterday afternoon when Att'y Martindale arose to review the evidence in behalf of the defendant in the Sutherland trial. Sutherland appeared to be rather unconcerned while Att'y Glazebrook read various murder cases to back up his idea of reasonable doubt and the weight that should be attached to circumstantial evidence. But when Mr. Martindale took up his cause in such earnestness and determination, hope throbbed as has not been perceptible in the defendant at any time before during the trial. When the att'y pictured the inconsistencies of the states witnesses, the eyes of the defendant gleamed, as if to say, "I am a persecuted man." Mr. Martindale told how the boy who testified to having handed the cap to the man in the wagon, failed to pick out the prisoner when afterward lined up with twenty other men. If this boy could not identify Sutherland as the man who came for the cap, this boy who was nearer him than any one else, then the identity as sworn to by others a distance away could not in reason be accepted by the jury. The att'y was not convinced in his own mind that Fetters was dead. The undertaker had sworn that the body of the dead man had but one eye, and that it was his opinion that the eye had been lost at least two or three years before death. It was a fact that Ed Fetters had two good eyes and if the undertaker's testimony is believed the state has failed to establish a "corpus delicti."

But whoever the dead man, it was his opinion that the guilty man was not the defendant. It was Dan Rober's mule in the grave of the dead man. Is it not a fact, asked Mr. Martindale, that Dan Rober is the author of this crime? What testimony except that of Dan Rober, himself, has the state that Rober sold a mule to Sutherland for \$5? Is it not unworthy of belief that Sutherland would give \$5 for a mule whose hide was worth but \$3?

Is it reasonable to believe that a man desiring to conceal a crime would buy a mule for its carcass alone—was it necessary to have a mule carcass in the same grave?

Then said the attorney, there was a stranger who ate dinner with Fetters at a Knox restaurant who saw that roll

of bills, if Fetters had a roll. Where is he? There is the mysterious third person who doubtless is chargeable with this crime, if the body is that of Ed Fetters.

In scathing terms, Mr. Martindale assailed Dan Rober, Taz Mitchell and Ed Foley, charging that if they would tell the truth, their necks would go to the halter. The body of the dead man was not buried on Nov. 16. The condition of the grave on Dec. 11, indicated that it was a newly made grave. The dirt was fresh; the body could not have been buried for three weeks. The grave would have sunk and cracked about the sides, if it had. His theory was that the body was concealed by Dan Rober until a suitable time to bury it. There was no evidence, said the attorney, that Fetters ever owned the team.

The only money that Fetters had was \$158 in July which he got of Mike Speisshofer. After getting this he ran after a Warsaw woman and came back to Plymouth in August without a cent.

Mr. Martindale did not think Fetters had a wad of money, and severely criticized the witnesses who had so testified. He, however, took occasion to compliment Harry Bernetha who had charge of the prosecution, stating that he is as good a prosecutor as the district has ever had. But the prosecutor, he thought, has been deceived by uncreditable witnesses.

The state wants a conviction on imagination.

If they left Knox at 5 o'clock they would reach Aunt Eliza's about 7 o'clock. But the evidence shows that the struggle took place near the election school house at nearly 9 o'clock or thereabout. The best point made by Mr. Martindale was in regard to the blood. There was no blood on the dead man's body or clothing. He must have been killed instantly. Of necessity his blood would have all been spilled at one spot. But at the place of the killing, the ground had the appearance of a hard struggle. Blood was scattered all about. Some other person in that fight must have been wounded. Who was it? It was not Sutherland for he had no wounds. The attorney thought that the man who kept hid for several weeks after the tragedy was the man whose blood mingled with that of the dead man near the election school house.

It was Mr. Martindale's idea that Grace Primley was at the scene of the murder when Fetters lost his life, and intimated that the dead man lost his life in a drunken fight, prompted by a contention for a bar's favor.

In conclusion, he made a tender appeal in behalf of the little girl and wife of the defendant, who would be deprived of a father and husband, if a verdict against the prisoner is given.

Mr. Bernetha then closed for the state. He complemented the ability of Mr. Martindale and related an incident in Martindale's career when he, won his case with odds tremendously against his client. A jurymen when asked how he could vote to acquit in view of the evidence which was all against the accused, replied that it was the case until after Mr. Martindale made his speech. Mr. Bernetha implied that Mr. Martindale had furnished the evidence himself in this case. Mr. Bernetha was still reviewing the evidence as we go to press. The jury will get the case tonight.

Republican District Convention.

The Republicans of the 13th congressional district met in convention in the opera house this (Tuesday) afternoon. George W. Holman of Rochester, was made chairman and R. B. Oglesbee Secretary. Every county in the district was represented. Elmer Crookall, business manager of the South Bend Tribune was elected district committeeman. Judge Biggs, of Warsaw, was called to the platform and delivered an address which was received with applause. Judge Biggs is a fine looking gentleman and a good speaker. He did not deliver a set speech, but only dealt in random shots. He said he thought that a Judge had as good a right as any other citizen to engage in politics and express an opinion. In this particular we think he is about right. There were a large number of solid republicans present and the various speakers were loudly applauded. It was quite evident that it is the intention of the republicans to make a hard fight in the coming campaign. Of course every thing was cut and dried, and outside of the speeches there is very little to report. The convention was composed of an intelligent class of citizens, and the flow of oratory was well distributed throughout the district. The speakers predict victory in Indiana next fall and we will see how well they predicted when the votes are counted.

A Good Home For Sale.

I offer my residence property corner Thayer and Dixon streets for sale on very reasonable terms. Marry Steel.

Frank Thomas Writes Home.

SKAGWAY, ALASKA, Jan. 7, '98.

JOHN W. THOMAS, Plymouth Ind.

Dear Parents:—Well here it is 1898 and I am 3,500 miles from home and my people and friends at Plymouth though that does not count much in a fast going age as this. Everything passed off here during holidays as usual. Just as it did at home perhaps, only that outside appearances here recognizes no holidays or Sunday, all days are alike to this surging throng, everybody hurrying hither and thither as if they had lost something and were trying to find it, possibly lost a dog; as there are so many dogs here it would be hard to find one unless he had a special mark and they all have special marks. There are dogs everywhere here and I never thought that a dog was as useful an animal for drafting as they are. Dogs are worth money here now; a good dog can pull from 100 to 500 pounds on a sled depending on the condition of the roads and the dog of course. They usually work them six in a team single file, they go on a trot most of the time, they are using all kinds of dogs but the big long haired fellows are the best, except perhaps the native dog, Friskies as they call them are the best of all as they can stand more hard knocks and go longer without feed. They look just like a gray wolf and are fighting half their time work or play.

The weather is fine here; there is just a little snow hardly enough for good sledding but I see they are using bobsleids instead of wagons. They are now sledding up along the river with small hand sleds and are using the ever indispensable and useful dog as well as horses to sled over the summit. People are coming in on every boat, there has been a number of boat loads landed here within the last two or three weeks. Three, the Elder, the Seattle and Topeka boats brought over fifteen hundred people for Skagway and Iyeka and the rush has not commenced either. Two more steamers are now due and they will be crowded to full capacity. They say that nearly all the boats on Pacific coast are going to run up here next summer and a number are coming around Cape Horn and some from Europe. If there are 500,000 people coming to Alaska and the North-west Territory this next summer and four out of five will land at Skagway, which is an assured fact according to estimates made here and if that does not mean a boom for Skagway then it does for Alaska. There are a number of people coming out from Dawson every few days. I have seen men who I knew on the trail this fall; most of them give very flattering reports about the weather down the lakes and river. They say it is very cold but dry, not very much wind especially where they are sheltered by the mountains. They report also that provisions are very scarce and that many more will have to come out of the country before spring. These men came all the way on ice. Some of them have dogs to pull their grub and blankets and have to pull enough to last them out; they all agree that it is a tough proposition and further say that it is an absolute impossibility for anyone to move an outfit down on the ice. As it is all one can do to move as much as it takes to last them while they are coming out. So I think the best and safest thing anyone can do is to wait until the ice breaks up in April or May and go down in a boat which will be much the quickest and the cheapest. You wrote me that there were a number of people coming from Plymouth and vicinity. I shall be ever so glad to give them all the information concerning the trail and country that I can. Many will go via St. Michaels, that is much the easiest way, but it is much the costliest as well as much the longest. Those who go down by the lakes as soon as the ice breaks up will reach the gold fields fully a month earlier than any steamers can get up from St. Michaels. In the spring it will be comparatively easy to reach the lakes with an outfit from here (Skagway) as the wagon road will be completed to the summit and from there one can sled for 15 miles on Summit Middle and Shallow Lakes and from there to Lake Bennett. There is now no good sled trail.

They are now moving goods over at one tenth the expense that it cost us last fall to say nothing of the labor and exposure, as well as the risk of life that we were subjected to. No doubt we ought to be whipped for being so crazy and foolish to attempt to cross a trail as this Skagway trail when we went in, but how could we know until we had gone beyond a return limit. I wonder now that men could endure the hardships we were compelled to undergo. Horses died by the thousands from the effects of incessant, chilling rains

exposure and lack of rough forage, as it was impossible to carry hay along. Usually when a horse went down in the mud he had either given out or had a broken leg and had to be shot. It rained about 21 days out of 30 while we were in the Pass. Our outfit consisted of eight horses, about 6,000 pounds provisions tent tools and clothing to four men, but now it is different that amount can be moved over the summit in possibly five days on the wagon road now nearing completion.

But please don't understand me as advising anybody to come who have not already made arrangements to come. It is all a gamble, with the great majority of people who go in and anybody in tending to come must consider that there are many chances to lose as well as win and that they will have to take even chances with possibly 500,000 people who will go down the Yucan either ahead or to follow after all in the next spring and summer.

Father I wrote the foregoing thinking you might want to publish a little. I did not want to write much to the papers concerning this country, nothing flattering in the least. I don't want to influence any one to come who would not come otherwise. It will be a lottery with everybody, especially the tender foot with small or insufficient means who has many more chances to lose than to win.

I am sure there will be plenty of work here at Skagway this summer, wages depending entirely on the amount of laborers coming in. Common labor \$1.50 and board, skilled labor four and five. Now don't have any fears mother about robbers and foot pads bothering here, they have to lay low an nearly everybody carries a revolver and grafters are afraid to act. As long as I have been in the country I have never seen a quarrel or a fight. Well good bye from your Loving son,

FRANK L. THOMAS.

Look Out.

It was talked upon the streets today that Sutherland had made the statement that he would die before he would return again to the penitentiary on a life sentence. If this be true, Sheriff Marshall should be on the alert. Sutherland, is known in Marshall county. He is a man that would resort to desperate deeds when he sees his last hope vanish. Sheriff Marshall is a good officer and a humane man.

Sutherland has nothing to commend him. If he is innocent the jury will so declare. But the jury has not yet rendered a verdict. A number of good people in Marshall county have heard the statements quoted above. For the protection of Sheriff Marshall, and Bondurant, who has this man in charge, this article is written. Both officials mentioned are brave and true, and they are good men, and the people of Marshall county don't want to see them, or hear of them, taking any chances with Sutherland.

How does this sound.

The second hearing of the case of the state vs. William Sutherland, for the murder of Ed Fetters, will be called in the circuit court at Plymouth next Monday, Jan. 24. A venire of 100 talesmen has been drawn, and both state and defense announce completed cases and will be ready for trial. It is reported that Sutherland will admit the killing and plead self defense—claiming that he had suspected an improper intimacy between his wife and Fetters, and that he accused Fetters of it on their return from Knox that night. A quarrel ensued, Fetters drew a knife and Sutherland shot him, after a fruitless attempt to quiet him with a club. This sounds vastly different from the story he told when arrested. At that time he denied any acquaintance or association with Fetters. If a plea of self defense is introduced Sutherland will also have to account for a knife cut on Fetters' temple.—Starke County News.

H. G. Thayer In Peru.

There was a large audience at the M. E. church last night to the lecture of Hon. H. G. Thayer, of Plymouth. His subject was "The Apostle Paul." The lecture was a decidedly scholarly one dwelling upon the different shades of character in the life of the great apostle and was embellished with frequent classical and historical allusions touching the times of the early Christians. Mr. Thayer lived in Peru a good many years ago and his father was a school teacher. The old gentleman was a preacher also in after years. He is still living and some of his old time pupils in the Peru schools will be glad to hear from him in this way.

—Peru Journal.

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Address: Independent Plymouth, Ind.

Brilliant Flight of Oratory.

Leo M. Lauer, in his closing remarks to the jury in the Sutherland case today closed with one of the most beautiful perorations ever before heard in Plymouth. His speech throughout was a monster one, and we herewith append his closing remarks which brought tears to many, the jury included: "And now gentlemen of the jury, when you come to deliberate on your verdict if in these deliberations you fail or falter, take the children of W. E. B. Fetters and go with them to the grave of their father in the Potters field at Knox in Crown Hill cemetery and there at that unmarked grave, unmarked by stone or monument, while the children strew the only garlands that have ever been strewn on the grave of their father, wetting the flowers with their tears, then while they kneel in silent prayer offering the only words that have ever been uttered for the soul of the departed spirit—there, remembering that this defendant brought about this condition there, gentlemen write your verdict."

REAL ESTATE TRANSFERS.

A list of the transfers of real estate in Marshall county, Indiana, from Jan. 24, 1898, to Jan. 29, 1898, as furnished by Cressner & Company.

Sadie Kane and husband et al to Thomas J. Butler w d land in Green township, \$1.00.

Thomas J. Butler and wife et al to Sadie Kane w d land in Green township, \$1.00.

Thomas J. Butler and wife et al to Maggie Phillips w d land in Green township, \$1.00.

Thomas J. Butler and wife et al to Lizzie Shaw w d land in Green township, \$1.00.

Thomas J. Butler and wife et al to John C. Butler w d land in Green township, \$1.00.

Louisa Wilson and husband to J. Q. Adams w d 78 1/2 acres in West township, \$3,500.

Jacob J. Cromley and wife to George A. Maxey w d undivided 1/2 of 160 acres in West township, \$1.00.

Charles E. Keller and wife to Nancy H. Rose w d land in North township, \$2,550.

Charles B. Tibbets trustee to Henry Zechel q c d north 44 feet of lot 28 original Culver City \$1,300.

Henry Zechel and wife to Urias Mense q c d north 44 feet of lot 28 original Culver City \$1,300.

George W. Alexander and wife Mary L. Morris and husband to James M. Alexander and Isaac H. Alexander w d All interest in 40 acres in Polk township \$100.

Caroline A. Hartman (formerly Baum) single to Oliver A. S. Geik w d south 25 feet of lot 4 and north 25 feet of lot 5 in Brownlee's subdivision of outlot 5 Wheeler's addition Plymouth, \$25.

Aaron Thomas and wife to Margaret A. McCullough w d 20 acres in Bourbon township, \$1,000.

Nancy J. Railsback and husband to Conrad W. Sult w d undivided 1/2 of lot 14 and 15 Wheeler's addition to Plymouth, \$1.00.

Jonas Densch and wife to Peter F. Dietrich w d 80 acres of land in German township, \$2,500.

Simon Snyder and Henry Snyder and wife to Peter and Leah Swoeland w d land in Walnut townships, \$2,700.

Harriet R. Cundingham and husband to Daniel Brubaker and Edward Grieder q c d land in Polk township \$10.

Frank Romshiskey and wife to Jacob atop Francis Rosinski w d land in German township, \$1,050.

Elizabeth Longorake and husband to James R. Schrom w d land in Center township, \$700.

Peter Richard and wife to Jacob A. Richard w d 80 acres in Green township, \$4,000.

Real estate mortgages to the amount of \$7,470 have been filed for the week ending Jan. 29, 1898.

CRESSNER & COMPANY, Abstractors.